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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
New York, 1-12 August 1994

STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the current session, the plenary dealt with the following matters:

I. Organization of work;

II. Implementation of resolution II:

A. Relinquishment of pioneer areas (resolution II, para. 1 (e));

B. Periodic reports;

C. Compliance with paragraph 8 of the Understanding on the fulfilment of obligations by the registered pioneer investor, Interoceanmetal Joint Organization (IOM), and its certifying States;

D. Periodic expenditures;

E. Waiver of the annual fixed fee and the obligation of the three registered pioneer investors and of their certifying States to carry out stage I of the exploration work;

F. Consideration of the report of the Group of Technical Experts to the General Committee on the application of the Government of the Republic of Korea for registration as a pioneer investor (LOS/PCN/BUR/R.40);

III. Matters arising from the imminent entry into force of the Convention:

A. Consideration of the provisional agenda for the first session of the Assembly and of the Council of the Authority and, as appropriate, of recommendations relating to items thereon (resolution I, para. 5 (a)) (LOS/PCN/139 and LOS/PCN/140);

B. Final report of the Training Panel;

C. Consideration of the budget for the first financial period of the International Seabed Authority (resolution I, para. 5 (c)) (LOS/PCN/141);

D. Date of the first session of the Assembly of the Authority;

E. Report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (resolution I, para. 10);

F. Final report on all matters within the mandate of the Preparatory Commission, except as referred to in E. above, to the Assembly of the International Seabed Authority at its first session (resolution I, para. 11).

I. ORGANIZATION OF WORK

2. On 1 August 1994, on the recommendation of the General Committee, the plenary adopted a programme of work for this meeting of the Commission which provided for more meetings than hitherto for the General Committee acting as the executive organ for the implementation of resolution II. Provision was also made for formal sessions of the Plenary to deal with matters arising from the imminent entry into force of the Convention. Arrangements were made for the Training Panel to meet simultaneously with the meetings of the Preparatory Commission during the first week of the meeting of the Preparatory Commission.

II. IMPLEMENTATION OF RESOLUTION II

A. Relinquishment of pioneer areas (resolution II, para. 1 (e))

3. On 8 August 1994 the General Committee took up the question of relinquishment of pioneer areas.

4. In accordance with the provisions on relinquishment in resolution II, paragraph 1 (e), the delegation of India notified the General Committee, on behalf of the Government of India, that 20 per cent of the pioneer area (30,000 square kilometres) had been relinquished. The area relinquished shall

be that bounded by the lines joining the turning points and the geographical coordinates indicated in the schedule annexed to document LOS/PCN/BUR/R.44.

5. The delegation of Poland, on behalf of the registered pioneer investor, Interoceanmetal Joint Organization (IOM), and its certifying States, notified the General Committee that, in accordance with the schedule established in paragraph 1 (e) (i) of resolution II, IOM had relinquished 20 per cent of the pioneer area that was situated in the southern part of the pioneer area and which adjoined the area reserved for the Authority. The relinquished area measured 30,672 square kilometres or 20.45 per cent of the pioneer area (LOS/PCN/BUR/R.45).

6. The General Committee took note of the notification of relinquishment of pioneer areas by the registered pioneer investors, the Government of India and the Interoceanmetal Joint Organization (IOM).

7. The General Committee recommended to the International Seabed Authority that the Council should continue monitoring the relinquishment of areas by the registered pioneer investors.

8. At the twelfth session of the Preparatory Commission held at Kingston, from 7 to 11 February 1994, China had reported the sinking of its research vessel R/V Xiangyanghong 16. As a consequence China had to postpone its arrangements to comply with the prescribed schedule for the relinquishment of areas (LOS/PCN/L.114/Rev.1, para. 14). China reiterated its intention to relinquish 30 per cent of the allocated area at the end of the fifth year in accordance with resolution II paragraph 1 (e).

B. Periodic reports

9. In accordance with paragraph 5 of the fulfilment of obligations (LOS/PCN/L.87, annex), the delegation of the Russian Federation submitted to the General Committee a periodic report on the activities of the registered pioneer investor, Yuzhmorgeologiya, covering the period from 1 January 1993 to 1 August 1994 (LOS/PCN/BUR/R.43).

10. The General Committee took note of the report.

C. Compliance with paragraph 8 of the Understanding on the fulfilment of obligations by the registered pioneer investor, Interoceanmetal Joint Organization (IOM), and its certifying States

11. In accordance with paragraph 8 of the understanding on the fulfilment of obligations by the registered pioneer investor Interoceanmetal Joint Organization (IOM) and its certifying States (LOS/PCN/L.108, annex), on the basis of the available data collected by it in the area reserved for the Authority, the Interoceanmetal Joint Organization (IOM) shall provide free of cost to the Preparatory Commission:

"Computerized database disks for samples, including:

"(i) The establishment of comprehensive computerized database disks for samples stations;

"(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs." (LOS/PCN/L.108, annex, para. 8).

12. In accordance with that paragraph, the delegation of Poland, on behalf of IOM, informed the General Committee that a preliminary report containing the required data has been submitted to the Secretary-General (LOS/PCN/BUR/R.46).

13. During the consideration of that matter, it was pointed out that members of the General Committee ought to have been provided with more information regarding the report. The General Committee took note of the report.

D. Periodic expenditures

14. Questions were raised regarding the periodic expenditures referred to in document LOS/PCN/L.87, annex, paragraph 4; of document LOS/PCN/L.102, annex, paragraph 4; and of document LOS/PCN/L.108, annex, paragraph 4. Under those paragraphs the periodic expenditures to be incurred in respect of the development of the respective pioneer areas were to be determined by the Preparatory Commission in consultation with and with the cooperation of each registered pioneer investor within 12 months of the adoption of the understanding.

15. It was noted that the Preparatory Commission had not determined amounts of periodic expenditures. The Commission had recognized that it was difficult at that stage to provide annual accounts of expenditures (LOS/PCN/L.113/Rev.1, para. 13).

E. Waiver of the annual fixed fee and the obligation of the three registered pioneer investors and of their certifying States to carry out stage I of the exploration work

16. The General Committee considered the issues relating to the waiver of the annual fixed fee payable under annex III, article 13, paragraph 3, in the light of the conclusions of the Group of Technical Experts contained in paragraph 57 of its report (LOS/PCN/BUR/R.32) and the decision of the Preparatory Commission embodied in document LOS/PCN/L.87, annex, paragraph 12, and decided to recommend to the Authority that the annual fixed fee payable by the registered pioneer investors upon entry into force of the Convention should be waived in a manner consistent with section 8, paragraph 2, of the Annex to the Agreement on the Implementation of Part XI of the United Nations Convention on the Law the Sea of 10 December 1982.

17. The General Committee also decided to waive the annual fixed fee of US$ 1 million provided for in resolution II, paragraph 7 (b), as of the date of registration and also referred to in document LOS/PCN/L.87, annex, paragraph 10. Notwithstanding the foregoing, the General Committee considered the obligation of the three registered pioneer investors, Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER/AFERNO), Deep Ocean Resources Development Co. Ltd. (DORD), Yuzhmorgeologiya, and of their certifying States, France, Japan and the Russian Federation, to carry out stage I of the exploration work referred to in LOS/PCN/L.87, annex, paragraphs 7 and 8, and decided, without prejudice to the understanding on stage II contained in LOS/PCN/L.87, annex, paragraph 9, that the performance of the obligation should be deferred until the Legal and Technical Commission determined that substantial exploration work was being carried out by any contractor, unless the Council decided, at the request of any registered pioneer investor, to make adjustments in accordance with paragraph 40 (a) of LOS/PCN/L.87 and section I, paragraph 6 (a) (iii), of the Annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

F. Consideration of the report of the Group of Technical Experts to the General Committee on the application of the Government of the Republic of Korea for registration as a pioneer investor (LOS/PCN/BUR/R.40)

18. On 2 August 1994, the General Committee registered the Government of the Republic of Korea as a pioneer investor.

19. On ..., the General Committee adopted an understanding on the fulfilment of obligations by the registered pioneer investor, the Government of the Republic of Korea, and its certifying State, the Republic of Korea. That understanding is annexed to the present report.

III. MATTERS ARISING FROM THE IMMINENT ENTRY INTO FORCE OF THE CONVENTION

A. Consideration of the provisional agenda for the first session of the Assembly and of the Council of the Authority and, as appropriate, of recommendations relating to items thereon (resolution I, para. 5 (a)) (LOS/PCN/139 and LOS/PCN/140)

20. The Plenary, at its 80th meeting, on 1 August 1994, considered the provisional agenda for the first session of the Assembly (LOS/PCN/139), and the provisional agenda of the Council (LOS/PCN/140).

1. The provisional agenda of the first session of the Assembly

21. The provisional agenda for the first session of the International Seabed Authority as contained in document LOS/PCN/139 was discussed paragraph by paragraph and the Plenary agreed on the following provisional agenda:

1. Opening of the session by the temporary Chairman.

2. Adoption of the rules of procedure.

3. Election of the President.

4. Adoption of the agenda.

5. Election of the Vice-Presidents.

6. Matters relating to the election of the members of the Council for the International Seabed Authority.

7. Election of the members of the Council.

8. Election of the members of the Finance Committee.

9. Appointment of the Credentials Committee.

10. Presentation of the final report of the Preparatory Commission.

11. Discussion on those sections of the final report on matters relating to the Authority that the Assembly may decide to consider, including the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the International Seabed Authority; the draft Protocol on Privileges and Immunities of the International Seabed Authority; and the Draft Agreement concerning the relationship between the United Nations and the International Seabed Authority.

12. Appointment of the Secretary-General of the Authority, as soon as the list of candidates for the election of the Secretary-General is proposed to the Assembly by the Council.

13. Consideration of the following:

    (a) Follow-up of the decisions taken by the Preparatory Commission on the implementation of resolution II;

    (b) Transfer of the property and records of the Preparatory Commission to the Authority;

    (c) Provisional budget and financial organization;

    (d) Follow-up of the training programme;

    (e) Organization of the secretariat.

14. Date of the second session of the Assembly.

15. Other matters.

22. During those discussions it was pointed out that with respect to item 13 (c), provisional budget and financial organization, account must be taken of section 2, paragraph 14, of the Annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 which provided for an interim period when the Authority would be funded by the United Nations. Thus, the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee would necessarily have a role to play with regard to the funding of the Authority in the initial period.

2. The provisional agenda of the first session of the Council

23. After an examination of the provisional agenda for the Council contained in document LOS/PCN/140, the Plenary agreed upon the following provisional agenda:

1. Opening of the session by the temporary Chairman.

2. Adoption of the rules of procedure.

3. Election of the President.

4. Election of the Vice-Presidents.

5. Adoption of the agenda.

6. Election of the members of the Finance Committee.

7. Drawing up of a list of candidates to be proposed to the Assembly for the election of the Secretary-General of the Authority.

8. Consideration of the following:

   (a) Follow-up of the decisions taken by the Preparatory Commission on the implementation of resolution II;

   (b) Follow-up of the training programme;

   (c) Organization of the secretariat;

   (d) Provisional budget and financial organization;

   (e) The draft Agreement concerning the relationship between the United Nations and the International Seabed Authority.

9. Consideration, with a view to adoption, of the rules, regulations and procedures necessary for the conduct of activities in the Area as they progress and of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment.

10. Consideration of applications for approval of plans of work.

11. Other matters.

24. The Plenary recognized that the first part of the first session of the Assembly would be of a purely ceremonial nature and would deal with item 1 of the provisional agenda of the first session of the Assembly and general statements. Further substantive items would be taken up in the resumed first session. The Plenary also noted that the session could be used for informal consultations on items of the provisional agenda relating to elections.

B. Final report of the Training Panel

25. The Training Panel held its sixth and last session on 1, 2 and 5 August 1994. The report of the sixth session and the final report of the Training Panel to the General Committee are contained in documents LOS/PCN/BUR/R.47 and R.48, respectively.

26. Following an evaluation of the training received by Mr. Kohpina, Mr. Hwang and Mr. Mohammad-Taheri under the training programme of Japan, and the training received by Mr. Braham under the training programme of France, the Panel established, on the basis of the reports presented, that the training had been carried out in accordance with the programmes that had been approved by the Panel and therefore recommended to the Preparatory Commission the issuance of training certificates to those four trainees.

27. The Panel took note of the reports presented by the Russian Federation and India on the successful completion of the traineeships by the two trainees who had received training under the training programme of the Russian Federation, and by two of the three trainees who had received training under the training programme of India. It decided that in the absence of the reports by the trainees on the training they had received in the Russian Federation, and the report of the Department of Ocean Development on the trainees who had received training in India, it could not proceed with an evaluation of the training received under the training programmes of the Russian Federation and India. The Panel was informed that the third trainee who had been selected for the training programme of India would commence his training in October 1994. The Panel also took note of the reports presented by France and China on the trainees who were currently undergoing training. The Panel was informed that the four trainees selected for the training programme of the Interoceanmetal Joint Organization would commence their training on 28 October 1994.

28. The Panel received information on the training programme of the International Ocean Institute. It also received an offer of training by the Intergovernmental Oceanographic Commission.

29. The Training Panel adopted its final report to the General Committee on 5 August 1994.

30. In presenting the reports of the Panel to the meeting of the General Committee, on 9 August 1994, the Chairman of the Panel stated that in addition to the recommendations contained in chapter III of the final report, and in accordance with the principles, policies, guidelines and procedures for a Preparatory Commission Training Programme (LOS/PCN/SCN.2/L.6/Rev.1), the Panel

also recommended that in the selection of staff for the Authority, priority should be given to the trainees who had completed their training.

31. The General Committee considered and took note of the report of the sixth session of the Panel. It endorsed the recommendation of the Panel that the Preparatory Commission issue training certificates to Mr. Kohpina, Mr. Hwang, Mr. Mohammad-Taheri and Mr. Braham.

32. The General Committee also considered and took note of the final report of the Panel. It decided to entrust to the Council the question of the follow-up of the training programmes, in particular the issues which the Panel had identified as outstanding and the recommendations it had made thereon.

C. Consideration of the budget for the first financial period of the International Seabed Authority (resolution I, para. 5 (c)) (LOS/PCN/141)

33. The Preparatory Commission decided to recommend to the General Assembly that it approve the draft budget for the International Seabed Authority only for the period 1994-1995 as contained in LOS/PCN/143. In doing so the Preparatory Commission noted that the draft budget was premised on the assumption that the activities of the Authority in 1994-1995 would relate in large measure to the establishment and internal administration of the Authority. The Preparatory Commission noted that, in the preparation of a draft budget for 1996, the Secretary-General of the Authority would need to consider the substantive functions of the Authority in relation to the anticipated level of activities in the Area.

D. Date of the first session of the Assembly of the Authority

34. The second part of the first session of the Assembly of the Authority will be held from 27 February to 17 March 1995. The third part will be held from 7 to 18 August 1995.

E. Report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (resolution I, para. 10)

35. The Preparatory Commission decided that the report to States Parties would comprise:

(i) The main report in chapter V, pages 100-114, of LOS/PCN/130, which will be excised from that document;

(ii) Addenda to that report, contained in the addenda to document LOS/PCN/SCN.4/WP.16;

(iii) The background documentation of Special Commission 4, annexed to the report; those documents are listed in LOS/PCN/130/Add.1, volume VI, parts one to four;

(iv) Draft budget for the first financial period of the International Tribunal for the Law of the Sea (LOS/PCN/142).

36. The Preparatory Commission also decided to transmit the recommendations approved at the current meeting (contained in para. 32 below) to the meeting of the States Parties.

37. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea took note of General Assembly resolution 48/263 of 28 July 1994 and the opening for signature of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. Bearing in mind the desire to achieve universal participation in the Convention and the provisions of Annex VI, articles 2 and 3, the Preparatory Commission recommended to the States Parties the following procedural arrangements for the organization of the Tribunal:

(a) An ad hoc meeting of the States Parties to the Convention should be convened as soon as possible after the date of its entry into force and in any case before the end of 1994 in order to discuss the organization of the Tribunal. The Preparatory Commission requested the Secretary-General of the United Nations, as the depositary of the Convention, to convene this meeting;

(b) The States Parties should, at that meeting, consider the possibility of a one-time deferment of the first election of the members of the Tribunal of a length to be decided by them;

(c) In the event of a deferment, the meeting of the States Parties should request the Secretary-General of the United Nations to address written invitations to the States Parties to submit their nominations for members of the Tribunal (Annex VI, article 4 (2)) at least three months before the date fixed by the ad hoc meeting of States Parties for the first election;

(d) The Secretary-General should be requested to designate a United Nations staff member as Acting Registrar of the Tribunal before 16 May 1995, charged with making preparations of a practical nature for the organization of the Tribunal, including the establishment of a library;

(e) States should continue consultations on the organization of the Tribunal.

F. Final report on all matters within the mandate of the Preparatory Commission, except as referred to in E. above, to the Assembly of the International Seabed Authority at its first session (resolution I, para. 11)

38. Under resolution I, paragraph 11, the Preparatory Commission has to prepare a final report on all matters within its mandate, except as provided in paragraph 10 of that resolution, to the Assembly at its first session. The Preparatory Commission has already adopted its provisional final report. The Preparatory Commission decided to consider as its final report that provisional final report on all matters within its mandate, except as provided in paragraph 10 of resolution I, supplemented by any further reports and recommendations which the Preparatory Commission might make.

39. The Preparatory Commission took note of the request contained in paragraph 13 of General Assembly Resolution 48/263 and decided, in the light of the fact that it had had insufficient time to revise the contents of its provisional final report, to recommend to the Authority that it should take into account the terms of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 in the consideration of the recommendations and report of the Preparatory Commission in order to ensure consistency as necessary.

ANNEX

Understanding on the fulfilment of obligations by the registered pioneer investor, the Government of the Republic of Korea, and its certifying State, the Republic of Korea

1. This understanding applies to the registered pioneer investor, the Government of the Republic of Korea, and its certifying State, the Republic of Korea.

2. The pioneer investor shall provide training pursuant to paragraph 12 (a) (ii) of resolution II in conformity with the specific programme for training approved by the Preparatory Commission in accordance with the principles, policies, guidelines and procedures contained in documents LOS/PCN/SCN.2/L.6/Rev.1 and LOS/PCN/SCN.2/L.7, taking into account the report contained in document LOS/PCN/BUR/R.6. It is agreed that the cost of such training shall be borne by the registered pioneer investor and shall be free of cost to the Preparatory Commission. The precise number of trainees, the duration and the fields of training shall be agreed upon between the Preparatory Commission and the registered pioneer investor according to its capabilities. It is further agreed that the first group of trainees shall consist of no less than four individuals.

3. In accordance with paragraph 12 (a) (iii) of resolution II, the registered pioneer investor undertakes to perform the obligations prescribed in the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the transfer of technology, and further agrees that training in the use of all available technology shall constitute a substantial component of the training programme referred to in paragraph 2.

4. The periodic expenditures for exploration to be incurred in accordance with paragraph 7 (c) of resolution II by the registered pioneer investor in respect of the development of the pioneer area shall be determined by the Preparatory Commission in consultation with and with the cooperation of the registered pioneer investor within 12 months of the adoption of this understanding. Such expenditures shall be reviewed by the Preparatory Commission from time to time in consultation with and with the cooperation of the registered pioneer investor.

5. The certifying State agrees to provide, in accordance with paragraph 12 (b) (ii) of resolution II, periodic reports to the Commission on the pioneer activities as defined in paragraph 1 (b) of resolution II, carried out by it, by its entities or natural or juridical persons in its pioneer area. Such reports shall be provided annually.

6. The registered pioneer investor, the Government of the Republic of Korea, will undertake, if so requested by the Preparatory Commission, a programme of exploration in accordance with the provisions of paragraph 12 (a) (i) of resolution II, of one mine site for the Enterprise in the area designated as the reserved area for the conduct of activities by the Authority.

7. The registered pioneer investor, the Government of the Republic of Korea, on the basis of the available data collected by it in the area reserved for the Authority, shall provide free of cost to the Preparatory Commission:

Computerized database disks for samples, including:

(i) The establishment of comprehensive computerized database disks for sample stations;

(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs.

8. The obligation of the registered pioneer investor, the Government of the Republic of Korea, under the provisions of paragraph 7 (b) of resolution II shall be waived as of the date of the registration.

9. An annual fixed fee shall be payable from the date of commencement of commercial production. This fee may be credited against other payments due under the system adopted in accordance with paragraph 1 (d) of section 8 of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. The amount of the fee shall be established by the Council.

10. Taking into account paragraph 19 (e) of the statement on the implementation of resolution II (LOS/PCN/L.41/Rev.1, annex), paragraph 17 of LOS/PCN/L.87, annex, paragraph 11 of LOS/PCN/L.102, annex, paragraph 11 of LOS/PCN/L.108, annex, and the present understanding, as well as the relevant characteristics and merits of each application, the Preparatory Commission or the Authority shall enter into arrangements similar to those contained in the above understandings with any other registered pioneer investor.

11. Owing to the constraints of time the monitoring of compliance by the registered pioneer investor, the Government of the Republic of Korea, and the certifying State, the Republic of Korea, with its obligations under resolution II and this understanding shall be carried out by the Authority.